time of the essence, would be, substantially, the inposition of a penalty. See note to *Wells* v. *Smith,* 31 Am. Dec. 278, and 2 Lead Cases Eq. 1134; POMEROY EQ. §455.

WILLS—ELECTION OF WIDOW TO TAKE UNDER WILL ESTOPPING HER TO TAKE INTESTATE PROPERTY.—Testator gave the residue of his property to his wife and son in equal shares, but the devise to the son lapsed upon his death during the life of the testator, and the testator died intestate as to this property. It was contended on behalf of the widow of the testator that she was entitled to this intestate property, she being the sole heir at law of her husband. *Held* that since the widow had elected to take under the will she was estopped from taking any portion of her husband's estate except that given her under the will; and that the property as to which he died intestate went to those who would inherit had the deceased left no widow. *In Re McAllister's Estate* (Minn. 1917), 160 N. W. 1016.

Upon the point here presented there seems to be an irreconcilable conflict of authority. See in accord with the principal case, *In Re Benson,* 96 N. Y. 499, 48 Am. Rep. 646; *Compton* v. *Ackers,* 96 Kan. 229, 150 Pac. 219. In an English case where the will expressly declared that certain provisions were made in lieu of dower, the court declared that the provisions applied only to such part of the estate as was disposed of by the testator, and the widow was not excluded from sharing in intestate property. *Naismith* v. *Boyes* [1899], A. C. 495. The same rule was followed in *Thompson's Estate,* 229 Pa. 542, 79 Atl. 173; *Bane* v. *Wick,* 14 Ohio St. 505; *Kaser* v. *Kaser,* 68 Ore. 153, 137 Pac. 187; *Sutton* v. *Read,* 176 Ill. 69, 51 N. E. 801. Contra *Ellis* v. *Dumond,* 259 Ill. 483, 102 N. E. 801. In *Demoss* v. *Demoss,* 47 Tenn. 256, where it was not expressly stated to have been in lieu of dower, the court decided in favor of the widow, basing their opinion upon the interpretation of their statute. Cf. *Collins* v. *Collins,* 126 Ind. 559, 25 N. E. 704. In *Beshore* v. *Lytle,* 114 Ind. 8, 16 N. E. 499, the court noticed the fact that the will gave the widow no "separate or individual estate," but merely made her a trustee, therefore her election to take under the will was not inconsistent with her claim to an ultimate share under the law. See in accord, *Micherson* v. *Bowly,* 49 Mass. 424; *State* v. *Holmes,* 115 Mich. 456, 73 N. W. 548; *Philleo* v. *Holliday,* 24 Tex. 38; *Bost* v. *Bost,* 57 N. C. 484. Also, 1 COL. LAW REV. 521.

WILLS—INCORPORATION OF FUTURE EVENT AS PART OF ORIGINAL DESCRIPTION.—Testatrix devised an estate to an afflicted son for life with remainder to "either one of my children who will take him into their family and see that he is supported and treated well"; no child was named to perform this duty. After the death of the life tenant, despite the fact that there is no dispute as to who did fulfil the condition by caring for the invalid, it is contended that this provision is void for uncertainty. *Held* (one justice dissenting) that the attempt to dispose of the remainder failed because the testatrix did not name or sufficiently designate which of the children should care for